

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TAMMY J. KITZMILLER, et al.	§	
	§	
Plaintiffs,	§	Civil Action No. 4:04-CV-2688
	§	(M.D. Pa.)
vs.	§	
	§	Hon. John E. Jones III
DOVER AREA SCHOOL	§	
DISTRICT and DOVER AREA	§	
SCHOOL DISTRICT BOARD	§	Motion for Leave of
OF DIRECTORS,	§	Foundation for Thought and
	§	Ethics to File Amicus Brief
Defendants.	§	

**MOTION FOR LEAVE OF FOUNDATION FOR
THOUGHT AND ETHICS TO FILE AMICUS BRIEF**

TO THE HONORABLE COURT:

The Foundation for Thought and Ethics (“FTE”) files this motion for leave to file an amicus brief, and would respectfully show the Court the following:

1. FTE is a non-profit corporation responsible for a seminal work on intelligent design, *The Mystery of Life’s Origin* (1984). FTE publishes and owns the intellectual property rights to *Of Pandas and People* (“*Pandas*”), the textbook which has been a focus of this litigation.¹

¹ As the Court is aware, FTE sought to intervene into this case on May 23, 2005. *See* Application to Intervene by Foundation for Thought and Ethics (filed on May 23, 2005), which is incorporated herein as if fully set forth.

2. A copy of the Brief of Amicus Curiae Foundation for Thought and Ethics is attached hereto as Exhibit A.

3. As provided for by Supreme Court rule 37(1), this Amicus Brief “[i] brings to the attention of the Court relevant matter [ii] not already brought to its attention by the parties . . . “

4. Throughout this litigation, Plaintiffs have gone to great efforts to mischaracterize *Pandas* and its publisher, FTE, as “creationist” or “religious.” In particular, Plaintiffs have attacked the school district’s policy which mentions *Pandas* by misdirecting the Court from the actual language of *Pandas*. Instead, Plaintiffs seek to rewrite the history of intelligent design, FTE and *Pandas*. Because of the importance of this issue not only to the Court, but to the legal status of FTE’s publication, this Amicus Brief seeks to provide the Court with relevant and accurate analysis concerning the history of intelligent design, FTE and *Pandas*.

5. Early on November 3, 2005, the undersigned attorney for The Foundation for Thought and Ethics attempted to contact and left messages with counsel for the parties seeking concurrence in the filing of this motion. No response was received back.

WHEREFORE, The Foundation for Thought and Ethics respectfully requests that the Court grant it permission to file its Amicus Brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2005, a copy of the foregoing motion were served on the following counsel through the electronic case filing system:

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